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June 13, 2024

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VIA ECF

Honorable John G. Koeltl
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Re: *NCR Voyix Corp. v. Embarcadero Techs. Europe, Ltd.*,
Case No. 1:24-cv-04458-JGK

Dear Judge Koeltl:

On behalf of Plaintiff NCR Voyix Corporation ("NCR") and pursuant to the Court's Individual Practices Sections VI, we seek the Court's permission to seal Exhibit 5 to the Complaint, Doc. 1-5. Exhibit 5 is a thread of emails regarding Defendant's deactivation of a software license used by an NCR customer. The most recent email in the thread includes a request by an NCR employee to NCR's in-house counsel for legal advice concerning the deactivation. NCR inadvertently attached as Exhibit 5 a version of this email thread that contains this privileged communication. Counsel for NCR contacted the Clerk of Court earlier this morning, immediately after learning of the inadvertent filing, to seek temporary removal of Exhibit 5 pending the Court's ruling.

Accordingly, we respectfully request that the Court seal Exhibit 5 to the Complaint (Doc. 1-5). Upon sealing of the exhibit, we will file a corrected version of Exhibit 5, with the privileged communication redacted. NCR's proposed corrected filing is attached hereto as Exhibit 1, and NCR has e-filed under seal an unredacted copy of Exhibit 5 with the proposed redactions highlighted in accordance with the Court's Individual Practices.

NCR has not yet conferred with Defendant about this requested relief because NCR is preparing and submitting an emergency motion for temporary injunctive relief simultaneously with this letter motion. Upon filing its emergency motion, NCR will serve Defendant with all pleadings, the motion for temporary restraining order and supporting documents, and all letter motions filed in this matter.

Accordingly, NCR respectfully requests that this Court issue an Order directing that Exhibit 5 to the Complaint (Doc. 1-5) be filed under seal and remain under seal until further order of the Court or application of the parties.

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Respectfully submitted,

/s/ Frederick L. Whitmer
Frederick L. Whitmer

cc: Embarcadero Technologies Europe, Ltd.
(via email, c/o Embarcadero Technologies, Inc., Attn: Chief Financial Officer,
email: trey.chambers@idera.com) (address for notices under Section 9 of the
Settlement Agreement)
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